

**ORDINANCE TO REGULATE SALES AND SOLICITATIONS IN ROADWAYS**

The City Council of the City of Durham ordains:

**Section 1.** The following provisions are added to Chapter 17 of the City Code:

*Sec. 17-54. Interacting with or impeding traffic on roadways.*

(a) Except for the permittee of a permit issued pursuant to Section 17-55(a) while acting pursuant to the permit –

(i) No person in the street right-of-way shall stop or attempt to stop any motor vehicle that is on a roadway, for the purpose of

(1) soliciting employment, business, or contributions from the driver or occupant of any motor vehicle, or

(2) providing any service to any motor vehicle.

(ii) No person in a street right-of-way shall deliver, or offer to deliver, any tangible thing to the driver, or any occupant, of a motor vehicle that is on a roadway;

(iii) No person in a street right-of-way shall, by means of a sign or other device of any kind, or by means of signals or motions, attempt to alert the driver or any occupant of a motor vehicle that is on a roadway to any commercial activity; and

(iv) Except as directed by law enforcement personnel, no driver or occupant of a motor vehicle that is on a roadway shall receive any tangible thing from a person on a roadway.

(b) This Section 17-54 does not apply to the extent that law enforcement personnel direct otherwise for the purpose of promoting safety of persons or property or to address an emergency. This Section 17-54 does not apply to actions taken in response to an emergency.

(c) For purposes of this Article III, “tangible thing” includes money.

*Sec. 17-55. Median permits.*

(a) The City Manager may issue median permits to individuals aged 16 or more. The application for a permit shall be complete only if accompanied by a fee in an amount set by City Council resolution and by photographs of the applicant, in the number and format specified by the City Manager so that the City’s files and the permit include a photograph. The City Manager shall prepare a list of Laws and recommendations, compliance with which may, in addition to other appropriate actions, lessen the hazard of acting pursuant to the permit. The City Manager shall not issue the permit to an applicant without being reasonably satisfied that the applicant understands that list. The permits shall not be transferable. A permit shall expire as stated on the permit, but no more than 12 months after its issuance. The permit may be revoked pursuant to section 17-106 (Revocation of Permit).

(b) *Work zones.* Permits issued pursuant to this Section 17-55 are not valid in work zones. A “work zone” is the area between the first sign that informs motorists of the existence of a work zone, construction zone, maintenance zone, utility work zone, or similar warning on a street and the last sign that informs motorists of the end of the zone, regardless of whether a sign states the penalty for speeding in the zone. Work zones are designated as such (1) if the Secretary of the N. C. Department of Transportation or the

City Manager determines, after engineering review, that the posting is necessary to ensure the safety of the traveling public due to a hazardous condition; or (2) if the posting is done at the direction of or with the consent of a governmental body or official having jurisdiction. The direction or consent may be given by any appropriate manner, including incorporation into specifications of a contract. There shall be a rebuttable presumption that any posting of a work zone has been done with the consent of a governmental body or official having jurisdiction.

*Sec. 17-56. Requirements for permittees.*

(a) The permittee, while acting pursuant to the permit, shall not:

- (1) offer to sell or sell any goods besides First Amendment Protected goods. First Amendment-Protected goods include newspapers and magazines.
- (2) stand, sit, or walk on a roadway or median. Nevertheless, the permittee may stand, sit, or walk on a "median strip." For purposes of this Article III, a "median strip" is the portion of the street right-of-way that
  - (i) separates traffic lanes, and
  - (ii) is planted with grass and/or is raised (with the approval of the City or the N. C. D. O. T.) above the level of the roadway and/or is separated from the roadway by a curb.
- (3) deliver or receive any tangible thing to or from any occupant of any motor vehicle in a lane that is not contiguous with the median strip or the curb.
- (4) deliver or receive any tangible thing to or from any occupant, other than the driver or a person on the driver's side, of a motor vehicle that is on a roadway.
- (5) be in the street right-of-way between 20 minutes before sunset and 20 minutes after sunrise. For purposes of this section, there is a rebuttable presumption that the United States Naval Observatory's times, as provided by the Astronomical Applications Department or its successor division or department within the Naval Observatory, for sunset and sunrise are correct.
- (6) fail to continuously display the permit in the manner prescribed by the City Manager, who shall set standards to make the permit visible to oncoming drivers.
- (7) fail to wear reflective outerwear that complies with the specifications issued by the City Manager to make the vendor visible but not distracting to drivers. Until the City Manager issues other specifications, a garment meeting the Class III standards under ANSI 107-1999 shall be the minimum reflective outerwear required for this subsection.
- (8) display a sign larger than two feet in any dimension.
- (9) display a sign or other device in the street right of way that is in violation of Chapter 12 of the Zoning Ordinance.

(10) stop or attempt to stop a motor vehicle that is approaching a traffic signal unless the traffic signal requires the vehicle to come to a complete stop. For example, the permittee does not violate this subsection (10) if the vehicle that the permittee stops or attempts to stop is approaching a stop sign or a steady, flashing, or strobe beam light emitting red light, and the permittee is in violating of this subsection if the vehicle that the permittee stops or attempts to stop is approaching a yield sign, or a steady, flashing, or strobe beam light emitting yellow or green light.

(11) interfere with the quick and safe passage across the roadway of pedestrians or of persons in or on wheelchairs or other devices designed or intended to assist the mobility-impaired.

(12) impede the normal movement of pedestrians or of persons in or on wheelchairs or other devices designed or intended to assist the mobility-impaired.

(13) violate any litter or traffic safety Laws, including N.C.G.S. 20-174.1 and N.C.G.S. 20-175; or

(14) fail to remove all goods for sale, and all structures, devices, things, and materials of any kind used to transport, protect, display, advertise, or sell any goods, from the street right of way when the permittee is more than 50 feet away from any such item.

(b) *Access to roadway.* On condition that the permittee is otherwise in compliance with applicable provisions of this Article III --

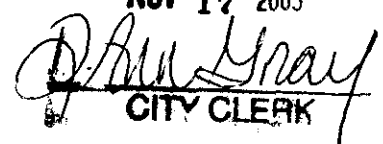
(i) the permittee may stand, sit, or walk on a roadway or median as necessary to travel to or from a motor vehicle whose driver has signaled the permittee to approach, and

(ii) the permittee may remain in the roadway during the time that is necessary for the permittee to engage in the transaction with an occupant of a motor vehicle.

(c) *Litter.* Any goods, structures, devices, things, and materials not removed in accordance with Section 17-56(a)(14) shall be considered litter pursuant to Section 10-108.1 of the City Code. Nothing in this Section 17-56 is intended to limit the effect of City Code Chapter 10 (Garbage, Other Solid Waste).

Section 17-57. *Exceptions for public service activities.* Section 17-54 does not apply to (1) licensees, lessees, franchisees, permittees, employees, or contractors of the City or of the N. C. Department of Transportation engaged in inspection, construction, repair, or maintenance or in making traffic or engineering surveys, or (2) any of the following persons while engaged in the performance of their respective occupations: firefighting personnel, law enforcement personnel, EMS personnel, health care workers or providers, military personnel, civil preparedness personnel, emergency management personnel, solid waste personnel, recycling personnel, public works personnel, or public utility employees.

**Section 2.** This ordinance shall be effective at 12:01 A.M. on January 1, 2004.

APPROVED BY  
CITY COUNCIL  
NOV 17 2003  
  
CITY CLERK